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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,811	07/19/2004	Werner Helms	016906-0321	4930
22428	7590	12/15/2005	EXAMINER	
FOLEY AND LARDNER LLP			HOOK, JAMES F	
SUITE 500			ART UNIT	
3000 K STREET NW			PAPER NUMBER	
WASHINGTON, DC 20007			3754	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/501,811	<b>Applicant(s)</b> HELMS ET AL.	
	<b>Examiner</b> James F. Hook	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7-19-04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

It is noted that this application was a translation of a foreign application, and it is considered that the description of the longitudinal weld being "variable" is inaccurate and possibly a product of an error in translation where the seam itself does not vary as much as the location of the seam can vary. For purposes of prosecuting the case, the examiner will treat this limitation as describing that the seam can lie anywhere on the small curved face.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Claim Rejections - 35 USC § 112***

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the

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claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claims 3 and 6 recite the broad recitation of a wall thickness of 0.5mm and less or equal thereto, and the claim also recites "in particular" the thickness is 0.25 and less or equal thereto which is the narrower statement of the range/limitation.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tadewald.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by JP 2001-50677.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sabathie (FR 2757258).

Claims 1, 3, and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zdora (EP 302232).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouchi (629) in view of Sabathie (FR 2757258). The patent to Ouchi discloses the recited multi chamber tube made from a flat strip comprising a longitudinal weld 5 at the end of one of the two curved narrow faces such as 4, and provided with a plurality of webs 6 to divide the chamber longitudinally which are soldered to the opposite wall, the longitudinal seam is considered to inherent possess the ability to be located anywhere the narrow curved ends when such would not always be perfectly centered depending on the bending of the sheet, where such is inherent to bending metal materials, also the thicknesses of the strip or wall can be 0.15-0.5mm which overlaps the claimed range, the thickness of the entire bent tube can be 1.2-2.0mm which also overlaps the range claimed. The patent to Ouchi discloses all of the recited structure with the exception of forming the webs along only one longitudinal face of the tube instead of both. The patent to Sabathie discloses in figure 2, that a plurality of webs can be formed in a single longitudinal face of the tube with the welded seam being formed on the small curved end of the tube near 2,3. It would have been obvious to one skilled in the art to modify the webs in Ouchi to extend from only one of the longitudinal faces as suggested by Sabathie as such is merely a choice of mechanical design as taught by Sabathie where such would be cheaper to manufacture by allowing all the bends to be made on only one part of the strip

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thereby requiring simpler bending machines which are cheaper which would save money.

Claims 5 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouchi (629) in view of Sabathie (FR 2757258) as applied to claims 1-4 and 6-8 above, and further in view of Koehnlechner (DE 19820937). The patent to Ouchi as modified discloses all of the recited structure with the exception of forming the end with a widened portion at the end which leaves the unshaped webs remaining unshaped. The patent to Koehnlechner discloses that it is old and well known in the art of multi chamber pipes to expand the end of a multi lumen tube 2 as seen in figure 2 by expanding one side and not doing anything to the web portion 6. It would have been obvious to one skilled in the art to modify the end of the pipe in Ouchi as modified by expanding the end to allow for it to more easily connect to other tubes and items as suggested by Koehnlechner where such would save money by making it easier to connect lengths of multilumen pipes.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Ohara, Ouchi (250), Wallis, Kato (433, 243, and 051), Rhodes, Haegele, Butler, and Nakagawa disclosing state of the art multi lumen tubes.

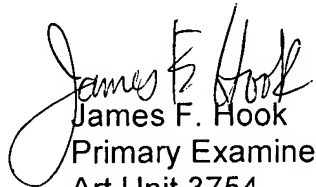
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is

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(571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James F. Hook  
Primary Examiner  
Art Unit 3754

JFH